

Message Text

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44

ACTION ARA-20

INFO OCT-01 ISO-00 L-03 EB-11 TRSE-00 COME-00 AGR-20 AID-20

DRC-01 RSC-01 /077 W

----- 125133

R 292039Z JAN 74

FM AMEMBASSY TEGUCIGALPA

TO SECSTATE WASHDC 6175

UNCLAS TEGUCIGALPA 399

E.O. 11652: N/A

TAGS: EIND, EAGR, HO, US

SUBJECT: TAX CLAIMS AGAINST U.S. LUMBER COMPANIES

REF: STATE 11087 AND TEGUCIGALPA 240

1. SUMMARY: THE HONDURAN TAX AUTHORITIES HAVE PROVIDED EMBASSY WITH DATA CONCERNING ALLEGED TAX INDEBTEDNESS OF MOST U.S. LUMBER INDUSTRY COMPANIES. CLAIMS TOTAL NEARLY \$1.5 MILLION FOR FIVE COMPANIES WITH TWO COMPANIES YET TO BE AUDITED. TAX AUTHORITIES, IN ADDITION, PROVIDED DESCRIPTION OF PROCEDURES BEING FOLLOWED AND PROCEDURES FOR APPEAR. END SUMMARY.

2. DIRECTOR GENERAL OF TAXATION, RENE PINEDA MEJIA, IN LETTER DATED JAN. 24, 1974 ADVISED EMBASSY OF TAX "ADJUSTMENTS" PRESENTED TO FIVE U.S. COMPANIES. (VALUES IN LEMPIRA, L.1 EQUALS \$.50).

INDUSTRIA MADERERA DEL NORTE	L. 963.761.98
MADERERA HIBUERAS INC.	L. 840.130.65
HAWTHORNE EXPORT LUMBER CO.	L. 582.408.87
JAMES ROGER	L. 387.117.22
ROBINSON LUMBER CO.	61.763.46
TOTAL	L.2.835.182.18

3. THE TAX AUTHORITIES ARE VERIFYING THE DECLARATIONS OF INCOME REPORTED BY MAYA LUMBER AND WILSON MAGEE, TWO ADDITIONAL COMPANIES WITH U.S. INVESTMENT INTERESTS.

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4. THE PINEDA LETTER GOES ON TO DESCRIBE THE FOLLOWING PROCEDURES UNDER TAX REGULATIONS:

A. UPON NOTIFICATION OF THE "ADJUSTMENTS" THE TAXPAYER HAS A PERIOD OF 30 DAYS TO PRESENT HIS OBJECTIONS (IMPUGNACION) WHICH MUST BE BASED UPON AND REFER TO EACH CATEGORY CONTAINED IN THE NOTIFICATION OF TAX ADJUSTMENT (ARTICLE 103 OF TAX REGULATIONS).

B. IF WITHIN THE 30 DAYS THE TAXPAYER AGREES TO THE ADJUSTMENTS, THE TAX AUTHORITIES WITHOUT FURTHER PROCEEDINGS WILL ORDER A LIQUIDATION OF THE TAX. IF WITHIN THE 30 DAYS THE TAXPAYER HAS NOT APPROVED OR OBJECTED, THE TAX AUTHORITIES WILL DICTATE A RESOLUTION CONCERNING THE ADJUSTMENT AND SO NOTIFY THE TAX PAYER IN THE FORM ESTABLISHED IN THE ADMINISTRATIVE PROCEDURES CODE (ARTICLE 104 OF TAX REGULATIONS).

C. IF THE TAX AUTHORITY AND THE TAXPAYER DO NOT RESOLVE THE OBJECTIONS OR CONFIRM THE TAX ADJUSTMENT THEY PROCEED TO AN APPEAL PRODECURE (ARTICLE 111 OF TAX REGULATIONS). THE APPEAL (RECURSO DE REPOSICION) MUST BE PRESENTED TO TAX AUTHORITIES (ARTICLE 112 OF TAX REGULATIONS).

D. IF THE TAX AUTHORITIES REFUSE THE APPEAL TOTALLY OR PARTIALLY THEY MUST DICTATE A FINDING TO THAT SENSE AND CITE THE APPEAL PROCEDURE TO BE FOLLOWED BEFORE THE SECRETARIA DE HACIENDA Y CREDITO PUBLICO (ARTICLE 113 AND 114 OF THE TAX REGULATIONS).

5. IF THE DECISION OF THE SECRETARIA IS NOT ACCEPTED BY THE TAX PAYER THE LATTER MAY PLACE HIS CLAIM BEFORE THE SUPREME COURT.

6. THE PINEDA LETTER STATES THAT THE TAX CLAIMS, IN GREAT PART, DERIVE FROM UNDER VALUATION OF SALE PRICES, THAT IS THAT THEY EXPORT PRICE REPORTED TO THE TAX AUTHORITIES IS LOWER THAN THE INTERNATIONAL MARKET PRICE. THIS INFORMATION WAS DETERMINED THROUGH INVESTIGATIONS IN THE CARIBBEAN AREA
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BY A GROUP OF AUDITORS FROM THE HONDURAS TAX OFFICE.

7. THE ADJUSTMENTS SO FAR PRESENTED COVER, WITH EXCEPTION OF "JAMES ROGER" THE TAXABLE YEARS 1971 AND 1972. THE TAX AUTHORITIES HAVE THE AUTHORITY TO AUDIT OR INVESTIGATE RETURNS FOR THE PREVIOUS FIVE YEARS AND IF INCOME HAS BEEN HIDDEN WITH THE INTENTION TO ELUDE ALL OR ANY PART OF THE TAX, THE TAX AUTHORITIES MAY EXTEND THEIR INVESTIGATION TO

TAX DECLARATIONS OF TEN YEARS BACK.

8. COMMENT: IT APPEARS THAT THE COMPANIES JAMES ROGER, ROBINSON LUMBER COMPANY, AND MADERERA HIBUERAS ARE BEING TREATED BY THE TAX AUTHORITIES AS COMPANIES RELATED BY OWNERSHIP. THE TAX LAWS PROVIDE FOR PENALTIES UP TO FIVE TIMES THE TAX ADJUSTMENT. ACCORDING TO PINEDA'S ORAL EXPLANATION, THE TAX AUTHORITIES DO NOT INTEND TO APPLY SUCH CLAIMS AGAINST THE CITED COMPANIES.

9. AIRGRAM FOLLOWS.
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NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LUMBER, INDUSTRY, EXPORTERS, DEBTS, TAXES, TAX COLLECTIONS, AUDITS
Control Number: n/a
Copy: SINGLE
Draft Date: 29 JAN 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974TEGUCI00399
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: n/a
From: TEGUCIGALPA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t1974017/aaaaagol.tel
Line Count: 127
Locator: TEXT ON-LINE
Office: ACTION ARA
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators:
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: STATE 11087 AND TEGUCIGALPA 240
Review Action: RELEASED, APPROVED
Review Authority: shawdg
Review Comment: n/a
Review Content Flags:
Review Date: 27 FEB 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <27 FEB 2002 by elbezefj>; APPROVED <26 NOV 2002 by shawdg>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: TAX CLAIMS AGAINST U.S. LUMBER COMPANIES
TAGS: EIND, EAGR, HO, US
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005